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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,794	11/12/2003	Robert D. Westcott	1083-66502	7783
24197	7590	04/18/2006	EXAMINER	
KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204			MANOHARAN, VIRGINIA	
			ART UNIT	PAPER NUMBER
			1764	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/712,794

Applicant(s)

WESTCOTT, ROBERT D.

Examiner

Virginia Manoharan

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 34-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicant's election of Group I, claims 1-33 in the reply filed on February 6, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors, e.g., typographical, grammar, idiomatic, syntax and etc. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) The preamble of claim 1 recites "a distillation system" , however the body of the claim does not mention an evaporator and a condenser defining said distillation system. See also claims 6, 24 and 26.

b). The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The fluid passageways; and the reflux vent, for examples only, are not positively recited as structures of the system in claim 1; and in claim 6 respectively. See also claim 24. Also, what device sealingly

Art Unit: 1764

attached the edges of the sloped portion to the respective inside surfaces of the walls, as recited e.g., in claim 26. [It is noteworthy that a "means plus function" is authorized by 35 USC 6<sup>th</sup> paragraph].

Claims 13 and 30 are objected to because the recitation of "that" is redundant.

Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westcott (4,929,312) in view of Bruno (5,217,904) and Files (4,836,891).

Westcott discloses substantially the features of the apparatus as claimed. See Fig. 1. The apparatus of Westcott differs from the claimed invention in that claim 1, for example, recites a plate situated in the interior space so as to divide the space into an upper portion and a lower portion ; and a thermally conductive member extending on an inside surface of a wall into the liquid.

However, Bruno (see claims at cols. 4-6) teaches the concept of a partition plate dividing the concentrator into an upper and a lower chamber; and Files teaches the concept of providing a thermally conductive member, i.e., a thermosyphon means (see claims at cols. 8-10) in a concentrator. Given these concepts [In re Bascom, 230 F. 2d 612, 109 USPQ 98 (CCPA 1956)], one would have been led to modify Westcott's

Art Unit: 1764

apparatus by incorporating a plate and a thermally conductive member, as in claim 1, motivated by the reasonable expectation of providing an improved distillation system.

The "wherein" clauses in independent claims 1 and 24-25 do not define any elements or devices of an apparatus, and accordingly cannot be distinguished from the prior art in the structural sense.[A process limitation is not the basis for patentability of an apparatus claim].

Claims 6-23 and 26-33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- a). Brett et al and Moss both disclose a solvent recovery apparatus.
- b). Keammerer discloses a device for dividing liquids.
- c). Pottharst discloses a distillation apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is 571-271-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
VIRGINIA MANOHARAN  
PRIMARY EXAMINER  
ART UNIT 1281764  
4/14/06